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EXAMINER
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CHOUDHARY, ANITA

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 01/29/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

PR4

**Office Action Summary**

Application N .

09/629,553

Applicant(s)

HAITSUKA ET AL.

Examiner

Anita Choudhary

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 12 .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Arguments***

This office action is in response to the communication filed on January 22, 2004. Claims 1-29 remain pending in the application.

In view of the interview that took place on January 23, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

### ***Claim Rejections - 35 USC § 112***

Claims 11 and 15 recite the limitation "the window" and "the client window" in line 2 and 2-3, respectively. There is insufficient antecedent basis for this limitation in the claim.

Examiner interprets the limitation "the window" and "the client window" to refer to a display on the output device, as is conventionally known in the art.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-5, 8, 10, 17-26, and 29 are rejected under 35 U.S.C. 102(a, e) as being anticipated by Radziewicz (US 5,854,897).

In referring to claim 1 and claim 22, which claim very similar limitations, Radziewicz shows a system for computer (14) and Network Service Provider (16) establishing communication via a connection path (20) and implementing a modified network server software (24) and a modified browser client software (26). In referring to claim 1 Radziewicz shows a method for displaying advertisements to user of an online service (12) using a client application (24, 26) on a local device (14). Radziewicz also shows:

- A client application activating (the client application comprising of both the modified network server software 24, and modified browser client software 26 shown in fig. 8A) (col. 5 lines 35-38).
- The client application (24, 26) establishing a communication channel (20) from the local device (14) to the online server (12) (col. 5 lines 31-34).
- A browser application activating (fig. 8A: 64, col. 13 line 26).
- The client application (24, 26) causing at least one advertisement to be displayed on the output device of the local device (see fig. 8A: 66, col. 13 line 28-29).
- The client application (24) monitoring the user's (DTE) interaction with the local device (14) with respect to the client application (26 at 14) and thereby detecting whether the user is interacting with the online service (12) (col. 6 lines 13-18).
- If the user has not interacted with the local device (14) with respect to the client application (20, 24) for a predetermined time, the client application (26) causing a dialog (fig. 8A-8D, 66, 76, 82, 84) to be displayed on the output device of the local device (14), wherein the

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dialog notifies the user that the user has been idle with respect to the online server (12, 20) by displaying resource locator in the dialog (col. 5 lines 43- col. 6 line 6, col. 12 lines 23-45).

In referring to claim 2 and 23 Radziewicz shows a method wherein the resource locator is associated with an advertisement (col. 12 lines 23-45).

In referring to claim 3 and 24, Radziewicz shows the display of at least one advertisement (announcement) operates in accordance with a first play list (sequence of messages col. 9 line 38-39), the first play list comprising at least one ad object, each ad object comprising a resource locator for a given advertisement, a resource locator for click-through associated with the given advertisement (col. 12 line 26-45), at least one display attribute for the given advertisement, the first play list further specifying an order in which the advertisements are to be displayed (col. 9 line 1-33).

In referring to claim 4 and 25, Radziewicz shows client application pausing the play list if the user has not interacted with the local device with respect to the client application (24) for an amount of time (col. 16 lines 18-23, fig. 3D, col. 15 lines 30-35). Radziewicz shows a storage area for recoding a log of the advertisements messages that were already transmitted to the users for futures use in selecting advertisement to display when connection is re-established.

In referring to claim 5 and 26, Radziewicz shows a system for client application displaying at least one advertisement in a client window displayed by the client application (fig. 8A-8D, 66, 76, 82, 84).

In referring to claim 8 and 29, Radziewicz shows client application establishes the communication channel (20) by creating a physical link between the local device and the online server via a PSTN (col. 2 line 59).

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In referring to claim 10, having some similar limitation as claim 1, Radziewicz shows:

- A client application activating (the client application comprising of both the modified network server software 24, and modified browser client software 26 shown in fig. 8A) (col. 5 lines 35-38).
- A browser application activating (fig. 8A: 64, col. 13 line 26).
- The browser application displaying a browser window on the output device of the local device (fig. 8A: 64).
- The client application (24, 26) causing at least one advertisement to be displayed in a window on the output device of the local device (col. 5 lines 43-56).
- The client application (24) monitoring the interaction with the window (timed advertisement) and thereby detecting whether the user is interacting with the online server (col. 16 lines 10-26).
- The client application removing the window from the output device of the local device if the user has not interacted with the window for a predetermined amount of time (executing a logout procedure, col. 15 lines 30-35, fig. 3D).

In referring to claim 17, the limitations of claim 1, 3, and 4 have been combined. As shown above, Radziewicz teaches:

- A client application activating (the client application comprising of both the modified network server software 24, and modified browser client software 26 shown in fig. 8A) (col. 5 lines 35-38).
- The client application (24, 26) establishing a communication channel (20) from the local device (14) to the online server (12) (col. 5 lines 31-34).

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- A browser application activating (fig. 8A: 64, col. 13 line 26).
- the display of at least one advertisement (announcement) operates in accordance with a first play list (sequence of messages col. 9 line 38-39), the first play list comprising at least one ad object, each ad object comprising a resource locator for a given advertisement, a resource locator for click-through associated with the given advertisement (col. 12 line 26-45), at least one display attribute for the given advertisement, the first play list further specifying an order in which the advertisements are to be displayed (col. 9 line 1-33).
- client application pausing the play list if the user has not interacted with the local device with respect to the client application (24) for an amount of time (col. 16 lines 18-23, fig. 3D, col. 15 lines 30-35). Radziewicz shows a storage area for recoding a log of the advertisements messages that were already transmitted to the users for futures use in selecting advertisement to display when connection is re-established.

In referring to claim 18, Radziewicz shows displaying a dialog (window) if the user has not interacted with the local device with respect to the client application (20, 26, 24) for a amount of time, wherein the dialog notifies the user that the user has been idle with respect to the online server (12, 20) by displaying resource locator in the dialog (col. 5 lines 43- col. 6 line 6, col. 12 lines 23-45).

In referring to claim 19, Radziewicz shows a window is a client window displayed by the client application (26, fig. 8A).

In referring to claim 20, Radziewicz shows the client application closing the communication channel if the user has not interacted with the locale device with respect to the client application (24) for an amount of time (col. 16 lines 9-26).

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In referring to claim 21, Radziewicz shows client application establishing a communication channel from the local device to the online server via telephone connection (col. 4 line 59).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radziewicz in view of Tazoe et al (US 6,326,985).

In referring to claim 6, 7, 26, and 27 although Radziewicz shows substantial features of the claimed invention, Radziewicz does not show determining inactivity with respect to the last time user “clicked” in a window. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Radziewicz as evidenced by Tazoe.

In an analogous art, Tazoe shows a system for determining inactivity of a client application by detecting dispatch message indicating mouse input in a client application window or on an icon located in a predetermined area of the screen (col. 13 line 62- col. 14 line 15 and col. 15 lines 4-56).



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Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Radziewicz to employ the features shown by Tazoe in order to more accurately detect inactivity of a user.

Claims 9 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radziewicz in view of knowledge known to one of ordinary skill in the art.

In referring to claim 9, Radziewicz shows client application establishes communication channel (20, 18) via a modem connection (col. 5 line 2). Although Radziewicz does not explicitly show a cable modem, one of ordinary skill in the art would have readily realized this design modification in order to accommodate various communication settings and therefore Official Notice it taken.

In referring to claim 11, Radziewicz shows a window is a client window displayed by the client application (26, fig. 8A).

In referring to claim 12, Radziewicz shows method for removing client window from display (log out), the client application (26) re-displaying the client window (66) on the output device if the user interacts with the browser application (col. 13 line 45-46).

In referring to claim 13, Radziewicz shows the display of at least one advertisement (announcement) operates in accordance with a first play list (sequence of messages col. 9 line 38-39), the first play list comprising at least one ad object, each ad object comprising a resource locator for a given advertisement, a resource locator for click-through associated with the given advertisement (col. 12 line 26-45), at least one display attribute for the given advertisement, the

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first play list further specifying an order in which the advertisements are to be displayed (col. 9 line 1-33).

In referring to claim 14, Radziewicz shows client application pausing the play list if the user has not interacted with the local device with respect to the client application (24) for an amount of time (col. 16 lines 18-23, fig. 3D, col. 15 lines 30-35). Radziewicz shows a storage area for recoding a log of the advertisements messages that were already transmitted to the users for futures use in selecting advertisement to display when connection is re-established.

In referring to claim 15, Radziewicz shows the displaying of client window (84) on top of the browser window on the output device (fig. 8D). Although Radziewicz does no explicitly shows the window preventing any other window from being displayed on top of the client window (84), this is a well known display design feature known to those of ordinary skill in the art. Official Notice is taken on the preventing of any other window from being displayed on top of the client window.

In referring to claim 16, Radziewicz shows the displaying of a window (84) on top of another window on the output device after an idle time (fig. 8D, col. 24 lines 46-66).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita Choudhary whose telephone number is (703) 305-5268. The examiner can normally be reached on 9am-5pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

AC

January 23, 2004



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